

NO. 25280

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.
THADD RAE CAMARA, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(Cr. No. 96-0230(2))

ORDER VACATING THE "AMENDED ORDER OF
RESENTENCING [AND] REVOCATION OF PROBATION"
(By: Burns, C.J., Watanabe, and Foley, JJ.)

Defendant-Appellant Thadd Rae Camara (Camara) appeals from the "Amended Order of Resentencing [and] Revocation of Probation" (the order) entered by the Circuit Court of the Second Circuit (the circuit court) on August 15, 2002. We vacate and remand.

On April 3, 1997, a Judgment was entered by the circuit court in Cr. No. 96-0230(2), convicting Camara of Promoting a Dangerous Drug in the Third Degree and sentencing him to serve a five-year term of probation. On October 31, 2001, in Cr. No. 99-0405(1), a Judgment was entered by the circuit court, convicting Camara of, and sentencing him for, Welfare Fraud and the Class B felony offense of Theft in the First Degree. As a result of Camara's felony conviction, the circuit court revoked Camara's probation in Cr. No. 96-0230(2), in accordance with Hawaii Revised Statutes § 706-625(3) (Supp. 1996), which provides, in relevant part: "The court shall revoke probation if

the defendant . . . has been convicted of a felony." The circuit court then resentenced Camara to serve a five-year prison term.

Pursuant to a Memorandum Opinion filed on October 14, 2003, this court vacated the October 31, 2001 Judgment convicting Camara of, and sentencing him for, Welfare Fraud and Theft, concluding that Camara's Hawai'i Rules of Penal Procedure Rule 48 right to a speedy trial had been violated. Since we have vacated the felony conviction upon which Camara's probation was automatically revoked, the order revoking Camara's probation must also be vacated.

Accordingly, we vacate the "Amended Order of Resentencing [and] Revocation of Probation" filed on August 15, 2002 and remand this case to the circuit court, with instructions that it dismiss the December 19, 2001 Order to Show Cause, directing Camara to show why his probationary status in Cr. No. 96-0230(2) should not be revoked and why he should not be resentenced.

DATED: Honolulu, Hawai'i, October 27, 2003.

Chief Judge

Associate Judge

Associate Judge